REMARKS

Claims 26-30 and 47-52 are pending in this application. Claims 26 and 47 have been amended. No new matter has been added. A Request for Continued Examination is enclosed herewith.

Claims 26 and 47 are independent.

Applicants wish to thank the Examiner for the Interview conducted on June 08, 2005, during which the current amendments were proposed to distinguish over the teachings of U.S. Patent No. 6,146,411 to Noda, et al. (Noda '411).

On page 2 of the Office Action, Claims 47 and 49-52 are rejected under 35 U.S.C. §103(a) as being unpatentable over Noda '411. Applicant respectfully traverses this rejection. The Examiner admits that Noda '411 does not teach "the sensor being located in the medical device." Furthermore, as discussed during the June 8, 2005 Interview, Noda '411 teaches away from having "at least one distal sensor in the medical device ... wherein the at least one distal sensor is in thermal communication with tissue to be treated to detect the temperature of the tissue to be treated proximate the medical device" as recited in Amended Claim 47.

Noda '411 specifically states that its medical device (indwelling catheter 20) is of "the type adapted for insertion into the body of the patient 50 in a particular body cavity and is preferably any one of the type of indwelling catheters disclosed in co-pending U.S. patent application Ser. No. 09/063,984 [U.S. Patent No. 6,126,684 to Gobin et al.] mentioned above and herein incorporated by reference in its entirety." Col. 4: 7-12. Gobin '684 do not disclose, teach or suggest the integration of a sensor with its indwelling catheters.

More specifically, the system of Noda '411 requires that the temperature sensor 22 be separate and distinct from the catheter 20, as it recites that the "probe 22 can be placed anywhere in the body" Col. 7: 5-6, and that a "plurality of probes 22 can be used to provide feedback to proportional temperature controller 24, *with some or even all of these probes being placed exteriorly of the body* at various locations in the system." Col. 7: 15-18. Consequently, the temperature sensor 22 cannot be integrated with the catheter 20, as this would mean that the catheter would no longer be placed inside the body. Noda '411 does not provide any motivation,

teaching or suggestion that its indwelling catheter 20 could have a temperature sensor located on it or in it. Noda '411 is primarily concerned with large area body cooling or organ cooling, it does not teach cooling to the proximate or immediate vicinity of the medical device. Col. 3: 54-65. As Noda '411 fails to disclose or render obvious amended Claim 47, and further teaches away from amended Claim 47, the rejection is believed to have been overcome, placing amended Claim 47 in a condition for allowance. Further, Claims 49-52 are believed to be allowable as they depend from amended Claim 47.

On page 2 of the Office Action, Claims 26-30 and 48 are rejected under 35 U.S.C. §103(a) as being unpatentable over Noda '411, further in view of Little, et al., U.S. 6,306,129, ("Little '129"). Applicants respectfully traverse this rejection. For the reasons stated above, Noda '411 neither alone nor in combination with Little '129 teaches or suggests amended Claim 26 as to render obvious Applicant's invention. Furthermore, Noda '411, whether alone or in combination with Little '129, fails to teach or suggest "a coolant scavenging system," or that "the first cooling system and the medical device comprise a substantially open-loop," as stated in amended Claim 26. To the contrary, Noda '411 discloses a "fluid volume reservoir...preferably a conventional IV bag 38," (Col. 5: 11-12) as a coolant source, yet does not disclose any element which would render obvious the "coolant scavenging system" of amended Claim 26. Additionally, Noda '411 provides a "self-contained primary circuit," (Col. 4: 60) which circulates fluid in a closed loop, as illustrated in Figure 1. The self-contained, closed-loop fluid circuit of Noda '411 prevents the use of a "coolant scavenging system" and is expressly opposite to having an open-loop flow path as claimed by Applicant. Because Noda '411 fails to disclose a "coolant scavenging system," and further teaches away from the use of an open-loop flow path, Noda '411, either alone or in combination with Little '129, does not render obvious amended Claim 26. As such, amended Claim 26 is believed to be patentable over the cited references. Further, Claims 27-30 and 48 are believed to be allowable as they depend from Claims 26 and 47, respectively.

For all of the above reasons, the claim objections are believed to have been overcome placing Claims 26-30 and 45-52 in condition for allowance, and reconsideration and allowance thereof is respectfully requested.

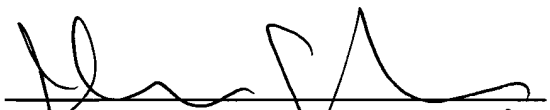
Claims 27-30 and 48-52 are each dependent either directly or indirectly from one or another of independent Claims 26 and 47. These claims recite additional limitations that, in conformity with the features of their corresponding independent claim, are not disclosed or suggested by the art of record. The dependent claims are therefore believed patentable. However, the individual reconsideration of the patentability of each claim on it own merits is respectfully requested.

For all of the above reasons, the claim objections are believed to have been overcome placing Claims 26-30 and 47-52 in condition for allowance, and reconsideration and allowance thereof is respectfully requested.

The Examiner is encouraged to telephone the undersigned to discuss any matter that would expedite allowance of the present application.

Respectfully submitted,

Date: August 17, 2005



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